

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **SEN. KELLY GEBHARDT**, on March 17, 2003 at 3:10 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. John Cobb, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Kelly Gebhardt (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Pat Murdo, Legislative Branch
Mona Spaulding, Committee Secretary
Rebecca Sattler, Transcription of Minutes

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 686, 3/7/2003; HB 731,
3/7/2003; HB 523, 2/28/2003;
HB 599, 3/7/2003;

Executive Action: HJR 24, Be Concurred In;
HJR 28, Be Concurred In

HEARING ON HB 686

Sponsor: REP. BOB BERGREN, HD 90, HAVRE

Opening Statement by Sponsor:

REP. BERGREN said HB 686 rectifies a codification error. The Police Retirement system created a deferred retirement option plan that went into effect last session. The eligibility date became due on July 1, 2002, but through a codification error none of the members were allowed to participate. HB 686 establishes retroactivity from 7/1/02 to 7/1/03.

Proponents' Testimony:

Ken Dove, Sergeant, Billings Police Department, said he was representing the 5,000 member of the Montana Police Protection Association and presented a fact sheet on the Association.

EXHIBIT (sts56b01)

Melonie Symons, Attorney, Public Employees Retirement Board, said the Board supports HB 686 and read her written testimony.

EXHIBIT (sts56b02)

Tom Schnieder, Montana Public Employees Association (MPEA), stood in support of HB 686 on behalf of the police officers MPEA represents.

Opponents' Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

REP. BERGREN thanked the Committee and closed on HB 686.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 4.5}

HEARING ON HB 731

Sponsor: REP. LARRY LEHMAN, HD 87, POWER

Opening Statement by Sponsor:

REP. LEHMAN said HB 731 addresses a retention problem in volunteer fire departments. He said volunteerism is down in Montana and nation-wide. Without young volunteers coming into the programs, it is necessary to retain people who are retiring or eligible to retire. HB 731 allows any member of a volunteer fire department with 20 years service, or reaching age 55, to continue service up to a maximum of 30 years. For that additional service, the volunteer's retirement would increase by \$7.50 per month after age 55 or up to 30 years.

{Tape: 1; Side: A; Approx. Time Counter: 4.5 - 7.3}

Proponents' Testimony:

Melanie Symons, Legal Counsel, Montana Public Employees Retirement Association (MPERA), read her written testimony in support of HB 731.

EXHIBIT (sts56b03)

John Semple, Montana Fire Alliance (MFA), comprised of volunteer firefighter entities within the State. He said MFA supports HB 731.

John Northey, Legal Council, Legislative Audit Division, representing only the Birdseye Volunteer Fire Department. He stood in support of HB 731. He said it provides some additional incentive to keep experienced people on the job.

Opponents' Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

REP. LEHMAN said HB 731 would enhance membership for volunteer fire departments. He thanked the Committee.

{Tape: 1; Side: A; Approx. Time Counter: 7.3 - 9.7}

HEARING ON HB 523

Sponsor: **REP. JOE BALLYEAT, HD 32, BOZEMAN**

Opening Statement by Sponsor:

REP. BALYEAT said HB 523 is a Clean Campaign Act bill dealing with election reform. He read his written testimony (Exhibit 4) and distributed a newspaper article (Exhibit 5) quoting the Democratic Party Executive Director saying HB 523 is an example of "good merit and good thinking." He said the Commissioner of Political Practices, a Republican appointee was in favor of the bill as well. He went over the proposed amendments (Exhibit 6).

EXHIBIT (sts56b04)

EXHIBIT (sts56b05)

EXHIBIT (sts56b06)

{Tape: 1; Side: A; Approx. Time Counter: 9.7 - 20.2}

Proponents' Testimony: None.

Opponents' Testimony:

John Shontz, Montana Newspaper Association (MNA) distributed and went through a packet (Exhibit 7) including a copy of the Declaration of Rights, statute 13-35-234 regarding political criminal libel, and SEN. TAYLOR's bill, SB 452. He addressed Section 3 of the bill regarding the media as it relates to freedom of speech. He explained that this bill violates constitutional rights. He said that the laws already put in place should be enforced before new ones are added.

EXHIBIT (sts56b07)

{Tape: 1; Side: A; Approx. Time Counter: 20.2 - 27.4}

Al Smith, Montana Trial Lawyers' Association, stated that they support clean campaigns and will never run a negative campaign. He expressed his concerns over the bill and the expenditure campaigns, as well as the time line of the requirements in the bill. He said that this bill limits freedom of speech.

{Tape: 1; Side: A; Approx. Time Counter: 27.4 - 30}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.5}

Jeanne Sowgney, Montana Conservation Voters (MCV), said that the amendments may address their concerns over the broadness of the bill. She went through the MCV's specific concerns regarding the time requirements, "commentary", the definition of "news," etc.

{Tape: 1; Side: B; Approx. Time Counter: 2.5 - 7.4}

Don Judge, Sierra Club, also agreed that the amendments have improved the bill, but still needs clarification. He stated that this bill applies to positive campaigns, as well as negative. He expressed their concern over the definition on Page 1, Line 24 of "substantiated nonidentical material" as well as "publisher or producer" on Page 2, Lines 2-3.

{Tape: 1; Side: B; Approx. Time Counter: 7.4 - 11.1}

Informational Testimony:

Brad Martin, Executive Director, Montana Democratic Party, stated that the bill has merit, but they have concerns with the details. He delineated those concerns, namely timing and definition loopholes, enforcement, and the inclusion of the words "commentary or news."

{Tape: 1; Side: B; Approx. Time Counter: 11.1 - 15.4}

Questions from Committee Members and Responses:

CHAIRMAN GEBHARDT asked John Shuntz about 13-35-234 being repealed. **John Shuntz** said that it may have been repealed in 2001, but it has been around for 20 years. He said that the way to address the problem is in the abuse-side of the liberty of free speech. Part of this bill is impairing anyone to speak freely on any subject they want.

SEN. COBB asked the Sponsor what he would like to do with his bill.

Closing by Sponsor:

REP. BALYEAT stated that none of the opponents approached him with their concerns, and read his closing remarks on HB 523. He said that nothing in the bill violates the constitutional language regarding freedom of speech, but he is willing to work on some clarifying language for the bill.

EXHIBIT(sts56b08)

{Tape: 1; Side: B; Approx. Time Counter: 15.4 - 27.3}

HEARING ON HB 599

Sponsor: REP. SCOTT SALES, HD 27, BOZEMAN

Opening Statement by Sponsor:

REP. SALES stated that HB 599 is very simple. He explained that HB 599 requires that all elections are to be held in conjunction with a primary or general election. He said that the Secretary of State is in favor of the bill. The amendment would exempt community colleges from the requirement.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 2.4}

Proponents' Testimony:

Stewart Doggett, representing Montana Community Colleges, said that they placed the amendment in the bill, and support the bill as amended.

Opponents' Testimony:

Harold Blattie, Montana Association of Counties (MACo), addressed their concerns with the bill. He said that this should be placed on municipalities or special districts as well as counties. He referred to statute 15-10-425 allowing a governing body to go over the floating bill cap. He addressed the Local Study Commissions (LSC) provisions in the bill. He gave an example of the need for situational bonding.

{Tape: 2; Side: A; Approx. Time Counter: 2.4 - 10}

Informational Testimony: None

Questions from Committee Members and Responses:

CHAIRMAN GEBHARDT asked if language was needed to cover emergencies. **Harold Blattie** said that there is language in statute to allow counties to levy up to 2 mils, but that is not enough in an emergency. He said that the problem lies in defining what constitutes an emergency.

CHAIRMAN GEBHARDT said he was referring to a bridge washing out, etc. more than a fire or flood emergency. He asked if the need was for other situations, outside of an emergency situation, in which a bond election would be necessary. **Harold Blattie** agreed that there are a number of situations that could apply.

Closing by Sponsor:

REP. SALES closed on HB 599, addressing the concerns raised by the opponent.

{Tape: 2; Side: A; Approx. Time Counter: 10 - 17}

EXECUTIVE ACTION ON HJR 24

Motion: SEN. COBB moved that HJR 24 BE CONCURRED IN.

Discussion:

SEN. SQUIRES said that this is the old issue about too many bills. She thinks this was an exceptional situation, and that the legislators should not be limited according to the number of bills they can carry. She said it sends out a message that they don't give consideration to personal issues.

SEN. SPRAGUE asked if the bill also limits the departments. CHAIRMAN GEBHARDT agreed that is where the majority of bill drafts requested come from. SEN. SQUIRES disagreed.

Vote: Motion carried 3-2 with SENS. WHEAT and SQUIRES voting no by voice vote.

SEN. COBB will carry the bill on the Senate floor.

{Tape: 2; Side: A; Approx. Time Counter: 17 - 23.8}

EXECUTIVE ACTION HJR 28

The Committee reviewed this resolution and addressed their previous concern to place legislators on the study.

Motion: SEN. COBB moved that HJR 28 BE CONCURRED IN.

Discussion:

SEN. SQUIRES asked about the federal funds involved. CHAIRMAN GEBHARDT answered that if it is over \$35,000 it comes under the Davis-Bacon Act, if it is less, it does not.

SEN. SQUIRES inquired about the bidding process. SEN. WHEAT explained how it had worked with the library.

CHAIRMAN GEBHARDT agreed, and said it will not take away any jobs, it is just a structure of the hierarchy.

Vote: Motion carried unanimously by voice vote.

SEN. WHEAT will carry the bill on the Senate floor.

{Tape: 2; Side: A; Approx. Time Counter: 22.9 - 28.2}

CHAIRMAN GEBHARDT reported the results of the Subcommittee's discussion on HB 218. He said that they Subcommittee is going to meet to further work out the details, and the bill would come back to the Committee next week.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 0.5}

The Committee addressed HB 190, so that executive action could be taken on Wednesday.

Janice Doggett, Secretary of State's Office, discussed the amendment (Exhibit 9). She also distributed the gray bill, with the changes made by the amendment written out. They went over the changes individually on Pages 1, 8, 9, 19, 20, 21, 22, 24, 25, and 27.

EXHIBIT (sts56b09)

EXHIBIT (sts56b10)

CHAIRMAN GEBHARDT closed the meeting.

{Tape: 2; Side: B; Approx. Time Counter: 0.5 - 22.6}

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. KELLY GEBHARDT, Chairman

REBECCA SATTLER, Transcriptionist

KG/RS

EXHIBIT (sts56bad)